

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 SP-02 USIA-06 AID-05
NSC-05 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 CIAE-00
COME-00 FRB-03 INR-07 NSAE-00 XMB-02 OPIC-03 LAB-04
SIL-01 DODE-00 PM-04 H-01 L-03 PA-01 PRS-01 /110 W
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R 281654Z FEB 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 5999
INFO AMEMBASSY TOKYO
USMISSION EC BRUSSELS
USDEL MTN GENEVA

LIMITED OFFICIAL USE SECTION 01 OF 03 BONN 03591

E.O. 11652: N/A
TAGS: ETRD, EEC, JA, GW
SUBJECT: FRG-JAPANESE TRADE RELATIONS

1. AN FRG ECONOMICS MINISTRY OFFICIAL (DR. MESENBERG, WHO HEADS OFFICE FOR RELATIONS WITH NON-EUROPEAN INDUSTRIAL NATIONS) HAS REQUESTED INFORMATION CONCERNING DIFFICULTIES WHICH U.S. FIRMS FACE IN ENTERING THE JAPANESE MARKET. MESENBERG IS ASSEMBLING MATERIAL ON THE PROBLEMS ENCOUNTERED BY GERMAN FIRMS, IN PREPARATION FOR FRG-JAPANESE DISCUSSION OF THESE DIFFICULTIES IN APRIL. HE GAVE EMBOFF A DRAFT OF THIS MATERIAL, AND ASKED WHETHER WE COULD CONFIRM WHETHER U.S. FIRMS FACE THE SAME PROBLEMS.

2. ACTION REQUESTED: EMBASSY WOULD APPRECIATE RECEIVING A BRIEF COMMENTARY ON U.S. EXPERIENCE WHICH COULD BE PASSED TO MESENBERG. UNDERSTAND USDOC PUBLISHED ABOUT THREE YEARS AGO LENGTHY STUDY
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OF THIS PROBLEM BY EUGENE KAPLAN. A COPY OF THIS STUDY MIGHT MEET MOST OF MESENBERG'S NEEDS.

3. AN INFORMAL EMBASSY TRANSLATION OF RELEVANT EXTRACTS FROM THIS DRAFT FOLLOWS.

"THE FOLLOWING GENERAL INSTITUTIONAL AND

ADMINISTRATIVE DIFFICULTIES HAVE HINDERED
EFFORTS OF GERMAN COMPANIES UP TO NOW TO
INTENSIFY THEIR EXPORTS TO JAPAN:

- THE DISTRIBUTION SYSTEM, ABOVE ALL
THE INSTITUTION OF GENERAL TRADING FIRMS, HAS
PROVED TO BE A MAIN OBSTACLE TO A GREATER
OPENING-UP OF THE JAPANESE MARKET TO GERMAN
INDUSTRIAL PRODUCTS. THESE DISTRIBUTION
HOUSES CONTROL AND DIRECT A LARGE SHARE OF IMPORTS.
DEPENDING ON THE INDIVIDUAL CASE, THEY IMPEDE
IMPORTS TO A GREATER OR LESSER DEGREE. PROBLEMS
HAVE RISEN OR EXAMPLE IN THE CHEMICALS AND
MACHINE SECTORS.

- GERMAN COMPANIES FIND THE OPENING-UP
OF THE JAPANESE MARKET THROUGH THEIR OWN SALES
NETWORKS TO BE EXTREMELY EXPENSIVE. THESE
COSTS ARE CAUSED, ABOVE ALL, BY THE SPECIAL
NATURE OF THE JAPANESE ECONOMIC SYSTEM (GENERAL
TRADING FIRMS, ECONOMIC MENTALITY, TRADITIONALLY
DETERMINED ECONOMIC LEGAL ORDER, ETC). SMALL
AND MEDIUM SIZED GERMAN FIRMS ARE NOT IN A
POSITION TO COVER THESE "OPENING-UP-COSTS".

- ACCESS TO FINANCIAL RESOURCES OF
JAPANESE ORIGIN IS DIFFICULT FOR FOREIGN
COMPANIES DOMICILED IN JAPAN. EVEN IN THOSE
INSTANCES IN WHICH GERMAN AND JAPANESE FIRMS
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COOPERATE IN THIRD COUNTRIES -- RESULTING IN
DELIVERIES BY GERMAN INDUSTRY -- COMPANY
COOPERATION IS POSSIBLE ONLY UNDER THE CONTROL
OF JAPANESE TRADING HOUSES.

- IN INTERNATIONAL MONETARY AND CREDIT
TRANSACTIONS, THE REGULATION PROVIDING THAT
THE FINAL PAYMENT DATE FOR IMPORTS INTO JAPAN
MUST BE/FOUR MONTHS AFTER CUSTOMS CLEARANCE
HAS PROVEN AN IMPEDIMENT TO IMPORTS. SPECIAL
AUTHORIZATION FOR LONGER PAYMENT PERIODS HAS
TO BE REQUESTED FROM MITI, AND CAN BE OBTAINED
ONLY VIA A TEDIOUS PROCESS.

- CUSTOMS ADMINISTRATION IMPEDIMENTS INCLUDE:

--JUDGMENTS BY THE CUSTOMS ADMINISTRATION
(E.G., ARBITRARY INCREASES OF AMOUNTS SHOWN
ON BILLS PRIOR TO CUSTOMS CLEARANCE);

--THE PRACTICE OF LIMITING CUSTOMS
PAYMENTS TO THE ADDED PROCESSING VALUE FOR

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COME-00 FRB-03 INR-07 NSAE-00 XMB-02 OPIC-03 LAB-04
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IMPORTS OF PROCESSED PRODUCTS ONLY IF
HARD-TO-PRODUCE EVIDENCE IS PROVIDED;

--DIFFICULTIES IN CONNECTION WITH
THE REFUNDING OF CUSTOMS PAYMENTS IN THE
CASE OF RE-EXPORTS;

--DELAYS DURING CUSTOMS PROCESSING
AS A RESULT OF PERSONNEL SHORTAGES IN
THE CUSTOMS ADMINISTRATION.

- THE FOLLOWING MEASURES AND PRACTICES OF
JAPANESE AGENCIES HAVE PROVEN TO BE IMPEDIMENTS
TO TRADE IN THE SECTOR OF PATENTS AND LICENSES:

--ABSENCE OF CLEAR GUIDELINES ON THE
APPLICATION OF REGULATIONS OF THE JAPANESE
CARTEL AUTHORITY (FTC) RESULTING IN

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INSECURITY ON THE PART OF GERMAN REQUESTORS
REGARDING POSSIBLE FTC REACTIONS;

--DIFFICULTIES FOR GERMAN LICENSING
FIRMS TO REACT TO FTC ARGUMENTATION BECAUSE
GERMAN COMPANIES, AS APPLICANTS FOR LICENSES
TO BE EXTENDED TO JAPAN, ARE NOT FURNISHED
THE COMMENTS OF THE FTC FOR THEIR INFORMATION;

--DELAYS OF COMPLAINTS IN CONNECTION
WITH THE PATENT REGISTRATION PROCESS (UP
TO 10 YEARS);

--INCURRING OF COSTS AS A RESULT OF
PERSONNEL AND TIME USED FOR PATENT-
PROCEDURES.

- CHANGES IN PRICING ARRANGEMENTS BETWEEN
A FOREIGN PARENT COMPANY AND SUBSIDIARY ACTIVE IN
JAPAN INDUCE JAPANESE AUTHORITIES TO MAKE VERY
THOROUGH INVESTIGATIONS. IN SOME INSTANCES, THE
FTC EVEN REQUESTS EXAMINATION OF THE BOOKS OF
A FOREIGN PARENT COMPANY.

- FREQUENTLY, THE APPLICATION OF TESTING
SPECIFICATIONS AND REGISTRATION REGULATIONS FOR
TECHNICAL PRODUCTS HAS THE EFFECT OF AN NTB.
IN MOST CASES, THIS RESULTS IN HIGHER PRICES
OF THE PRODUCTS (IN PARTICULAR FOR PHARMACEUTICALS,
AGRICULTURAL CHEMICALS, MOTOR VEHICLES, SHIP
DIESEL ENGINES, ELECTRICAL AND ELECTRONIC
PRODUCTS, SURGERY INSTRUMENTS AND NEW CHEMICALS
WHICH ARE NOT SPECIFIED IN THE "LIST OF EXISTING
CHEMICAL SUBSTANCES").

- ESTABLISHMENT OF CONSIGNMENT DEPOTS
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BY GERMAN COMPANIES IS VERY DIFFICULT, SINCE
AUTHORIZATION CAN BE OBTAINED FROM MITI ONLY
WITH GREAT TROUBLE. ISSUANCE OF LICENSES IS
SUBJECT TO A THOROUGH INVESTIGATION BY MITI
OF THE JAPANESE MARKET SITUATION FOR THE
PERTINENT PRODUCT GROUPS.

- AS FAR AS IS KNOWN, NO EC COMPANY
HAS YET BEEN GIVEN PERMISSION BY JAPANESE
AUTHORITIES TO OPERATE A HARBOR SHIPPING TRADE,
OR FOR TRANSOCEANIC TRANSPORTATION.

- THE JAPANESE BIDDING SYSTEM FOR PUBLIC
WORKS IS INSUFFICIENTLY TRANSPARENT TO ALLOW
NON-JAPANESE COMPANIES THE POSSIBILITY OF
PARTICIPATION IN BIDDING. GERMAN COMPANIES
WITH INTERNATIONAL EXPERIENCE IN THIS SECTOR
HAVE BEEN EXCLUDED IN PRACTICE FROM COMPETITION
IN THE PUBLIC SECTOR OF THE JAPANESE ECONOMY.

- GOVERNMENT INFORMATION POLICY HAS
NOT ESTABLISHED ALL PREREQUISITES NEEDED TO
INSURE THAT THE JAPANESE MARKET IS AS TRANS-
PARENT TO GERMAN COMPANIES AS MARKETS IN THE
FEDERAL REPUBLIC ARE TO JAPANESE EXPORTERS.

- SPECIFIC PROBLEMS EXIST FOR CERTAIN
SECTORS OF GERMAN INDUSTRY IN THEIR EFFORTS TO
INCREASE EXPORTS TO JAPAN.

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(A) AUTOMOBILE INDUSTRY

CONSIDERABLE DIFFICULTIES HAVE
ARISEN REGARDING JAPANESE REGULATIONS FOR
CONFORMITY TO LOCAL SPECIFICATIONS OF
VEHICLES IMPORTED INTO JAPAN. NEGOTIATIONS
WITH THE JAPANESE SIDE ON THESE PROBLEMS
ON THE EC LEVEL HAVE NOT BEEN FULLY
SATISFACTORY UP TO NOW. MOST RECENTLY,
NEW DIFFICULTIES HAVE ARISEN IN CONNECTION
WITH THE COMPLEX OF QUESTIONS CONCERNING
INSPECTION IN THE FRG OF MOTOR VEHICLES
DESTINED FOR THE JAPANESE MARKET.

(B) CHEMICAL INDUSTRY

ACCESS TO THE JAPANESE MARKET
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IS AGGRAVATED FOR THIS INDUSTRIAL SECTOR
BY SPECIAL REGISTRATION REGULATIONS WHICH,
TO SOME EXTENT, REQUIRE EXPENSIVE REPETITIVE
TESTS. FURTHERMORE, THE EXACT WORDING OF
TEST CRITERIA IS FREQUENTLY NOT AVAILABLE.
THIS APPLIES NOT ONLY TO ORGANIC AND
INORGANIC CHEMICAL PRODUCTS, BUT TO
AGRICULTURAL CHEMICALS AS WELL."
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